

SURFACE COAL MINING REPEAL DATES

The Legislative Management Committee asked the Interim Committee to review two provisions regarding surface coal mining that will be repealed on September 30, 2009.

Surface Coal Mining Provisions

Subsection 40-10-11(5)

Section 40-10-11 prohibits the division from issuing a permit if an applicant has violated an environmental protection requirement in connection with a surface coal mining operation within three years of the application or demonstrated a pattern of willful violations resulting in irreparable environmental damage.

Subsection 40-10-11(5) provides an exception to this prohibition if the violation resulted from an unanticipated event or condition that occurred on lands eligible for further mining under a permit held by the applicant.

Subsection 40-10-17(2)(t)(ii)

Subsection 40-10-17(2)(t)(ii) establishes shorter time periods for revegetation of lands eligible for further mining.

Legislative History

Subsections 40-10-11(5) and 40-10-17(2)(t)(ii) were enacted in 1994 with a September 2004 repeal date. In 2004, the Legislature extended the repeal date to September 2009.

Federal Law

Congress amended the Surface Mining Control & Reclamation Act in 2006 to delete the repeal dates mirrored in Utah's Title 40, Chapter 10, Coal Mining and Reclamation.

Utah's statute needs to be as effective as the Surface Mining Control & Reclamation Act to retain primacy of coal mining reclamation and the associated federal funds.

Options

The Interim Committee has the following three options:

- (1) do nothing and the two provisions will be repealed as provided by the repeal dates in the current statute;
- (2) draft a bill to extend the repeal dates; or
- (3) draft a bill to delete the repeal dates, making the provisions permanent and consistent with federal law.